IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.7412 OF 2005
IN
C.R.NO.391 OF 2005

Mrs.Shalu Chandrakant Waghmare Applicant

versus

MIDC Police Station, Andheri (E)
and another Respondents

R.R.Shinde for applicant.

K.V.Saste, APP for respondents.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 23rd November 2005

PC :

1. Heard learned advocate for the applicant and Mr.Saste - APP for respondents. The FIR was registered under sections 302, 323, 504, 506 R/W 34 of IPC against the applicant woman accused on 3rd September 2005. The applicant was arrested on 4th September 2005 and presently in jail custody. At paragraph 3 (clause "e" of the application) it is pointed out that the applicant is a house wife having three minor children. She is in jail custody with a one and half years old minor child. The incident in question took place

at a public tap. The applicant was waiting for her turn at a public tap for water. The complainant was drawing water. There was an altercation and quarrel between the applicant and others as well as complainant and her father in law. The same was instigated also by a person with criminal antecedents. Initially, the father-in-law of the complainant was attacked and when he was on his way to the Police Station to lodge a complaint, it is alleged that the applicant assaulted the daughter-in-law deceased with a Farshi/Stone. The complaint has been lodged in these circumstances. The deceased succumbed on the second day in the local hospital to the injuries and it is contended that the blow caused by the Farshi/Stone was not the reason for death. In any event, it was not intentional. The whole episode has a typical background in the sense that people gather at the public tap and each one of them want to fill up the water within the prescribed limit. The applicant and others including the deceased are residing in the slum area.

2. Even if a prima facie case does exist as alleged, yet, considering that the applicant is a woman and has to bring up minor children

including one and half years old son, it is a fit case where she need be enlarged on bail. Moreso, when there are no antecedents and she is a house wife. The applicant has to be imposed conditions to furnish two local sureties because the apprehension of the learned APP is that this being a slum area, in the event of the applicant being either shifted or the structures being demolished, it will be difficult to secure her presence at the trial. There is substance in the apprehension.

3. Accordingly following order :-

(i) The applicant shall be enlarged on bail in connection with C.R.No.391/2005 registered at MIDC Andheri (East) Police Station, subject to furnishing a personal bond of Rs.5,000/- (Rs.Five thousand only) with a local surety in the same sum;

(ii) It is specifically directed that in the event the applicant is involved in similar incident during the period of bail, that would be enough for the prosecution to apply for cancellation of this bail;

(iii) The bail is granted subject to condition that the applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

(iv) The applicant shall co-operate with the Trial Court for expeditious disposal of the trial. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

(v) Any observation/s made in this order shall not be constructed as any finding or any expression of opinion on the merits of the case at the time of trial.

(vi) Application is disposed of in above terms.

(S.C.DHARMADHIKARI, J.)